

COUNTY COMMISSIONERS OF CHARLES COUNTY, MARYLAND

2005 Legislative Session

Legislative Day # 12

BILL NO. 2005-18

Introduced by: Charles County Commissioners

AN ACT concerning

**Exemption for Age Restricted Housing from the Excise Tax and Certain
Adequate Public Facilities Requirements**

Date introduced: July 12, 2005

Public Hearing: August 30, 2005

Commissioners Action: 10 / 03/ 2005 Enact

Commissioner Votes: WC: Y, RF: Y, AS: Y, EP: Y, CK: Y

Pass/Fail: Pass

Effective Date: 10 / 18 / 2005

Remarks:

COUNTY COMMISSIONERS OF CHARLES COUNTY, MARYLAND

2005 Legislative Session

Bill No. _____

Chapter. No. _____

Introduced by _____

Date of Introduction _____

BILL

1 AN ACT concerning

2 **Zoning Ordinance**

3 **Exemption for Age Restricted Housing from the Excise Tax and Certain Adequate**
4 **Public Facilities Requirements**

5 FOR the purpose of

6
7 Adding further restrictions to the current exemption from the Adequate Public Facilities
8 requirements for schools and the assessment of the Fair Share School Construction Excise
9 Tax.

10
11 BY repealing and reenacting, with amendments:

12 Chapter 297, Section 49 (E) Definitions
13 Code of Charles County
14 (1994 Edition, 2000 Supplement)

15
16 BY repealing and reenacting, with amendments:

17 Chapter 297, Section 258 (A)
18 Code of Charles County
19 (1994 Edition, 2000 Supplement)

1 BY repealing and reenacting, with amendments:

2 Chapter 297, Section 258 (G)

3 Code of Charles County

4 (1994 Edition, 2000 Supplement)

5
6 **SECTION 1.** BE IT ENACTED BY THE COUNTY COMMISSIONERS OF
7 CHARLES COUNTY, MARYLAND, that the Laws of Charles County, Maryland read as
8 follows:

9
10 **Chapter 297: Zoning**

11
12 **Section 297-49: E. Definitions**

13 RETIREMENT HOUSING COMPLEX- A residential institutional facility providing a
14 graduated range of housing and services for individuals who are 55 years of age or older,
15 ranging from single-family attached, detached or multifamily dwelling units to congregate
16 housing facilities. **FOR ALL DEPENDENT AND SEMI-INDEPENDENT LIVING**
17 **UNITS WITHIN THE COMPLEX**, such facilities [may] **SHALL** include communal
18 dining and food preparation facilities, laundry and cleaning facilities, common recreation
19 and meeting space, **AND** medical and personal services, provided that none of these
20 ancillary facilities or services are available to the general public, unless otherwise
21 permitted within the zone in which the use is located. [Added 9-28-1998 by Ord. No. 99-
22 25]

23
24 **Section 297-258: Schools**

25
26 (A) This Section applies to all residential developments except [the following:]
27 CERTAIN [those] residential developments KNOWN AS RETIREMENT
28 HOUSING COMPLEXES AND CERTAIN RESIDENTIAL DEVELOPMENTS
29 IN THE FOLLOWING PLANNED DEVELOPMENT ZONES: the Planned
30 Residential Development zone (PRD);[,or] the Planned Unit Development zone

1 (PUD); THE MIXED USE DEVELOPMENT ZONE (MX); THE PLANNED
2 MANUFACTURED HOME PARK (PMH); THE WATERFRONT PLANNED
3 COMMUNITY (WPC); OR, THE TRANSIT ORIENTED DEVELOPMENT
4 ZONE (TOD) as defined in the Charles County Zoning Ordinance. IN ORDER TO
5 QUALIFY FOR THESE EXEMPTIONS THE DEVELOPMENTS WITHIN
6 THESE ZONES SHALL BE restricted by deed to the residency of at least one
7 individual fifty-five (55) years of age or older and exclude permanent occupancy by
8 anyone under the age of twenty-one (21) and that also have further deed restrictions
9 which shall include each of the following:
10

- 11 (1) No DWELLING UNIT [house] may be occupied by any individual
12 under the age of twenty-one (21) for more than 30 days in any
13 six-month period.
14
- 15 (2) Each DWELLING UNIT [house] shall be occupied following its sale
16 or lease by at least one individual fifty-five(55) years of age or older.
17 Individuals aged twenty-one(21) or older may reside in the
18 DEVELOPMENT [community], as long as they occupy a
19 DWELLING UNIT [house] with an individual aged 55 years or
20 older, and will be allowed to remain in the DWELLING UNIT
21 [house] following the death, divorce or incapacity of the individual
22 aged fifty-five (55) years or older as long as the number of residences
23 occupied by such households does not exceed 20% of the total
24 occupied DWELLING UNITS [houses] within the
25 DEVELOPMENT [community]. No new individuals aged 21 to 54
26 can move into the DWELLING UNIT [house] after the death,
27 divorce or incapacitation of the individual aged 55 years or older.
28
- 29 (3) In order to insure continuous compliance with the age restrictions,
30 each contract of sale or lease agreement for THE VARYING

1 HOUSING TYPES [a house] within the DEVELOPMENT
2 [community] will require certification of the household composition,
3 i.e., the name and birth date of each resident. Each household shall
4 re-certify its composition (i.e., the name and birth date of each
5 resident) on an annual basis. THE ENTITY WITH
6 MANAGEMENT RESPONSIBILITIES OR THE
7 HOMEOWNERS' ASSOCIATION FOR THE DEVELOPMENT
8 SHALL SUBMIT, ON AN ANNUAL BASIS, TO THE DIRECTOR
9 OF PLANNING AND GROWTH MANAGEMENT A LETTER
10 CERTIFYING AND DOCUMENTING THE COMPOSITION (I.E.
11 THE NAME AND BIRTH DATE OF EACH RESIDENT) AND
12 COMPLIANCE OF EACH HOUSEHOLD IN THE
13 DEVELOPMENT.
14

15 (4) THE ENTITY WITH MANAGEMENT RESPONSIBILITIES OR
16 the Homeowners' Association for the DEVELOPMENT
17 [community] shall be required to enforce the covenants and shall be
18 prohibited from electing to waive its enforcement rights and
19 obligations.
20

21 (5) The Charles County Commissioners shall be designated as a
22 beneficiary of the covenants based upon their agreement to exempt
23 the DEVELOPMENT [community] from the obligation to pay the
24 Fair Share School Construction Excise Tax or an Impact Fee for
25 school capacity and for the sole purpose of empowering Charles
26 County with the right to enforce the covenants. This designation
27 shall not obligate Charles County to enforce the covenants. The
28 damages incurred by Charles County in the event of THE ENTITY
29 WITH MANAGEMENT RESPONSIBILITIES OR the
30 Homeowners' Association's failure to enforce the covenants

1 described in Section 297-258A[(2)] will include, but not be limited
2 to, the amount of the Fair Share School Construction Excise Tax or
3 Impact Fee that would have been assessed for the entire
4 DEVELOPMENT [community], if the DEVELOPMENT
5 [community] had not been exempt from the Fair Share School
6 Construction Excise Tax or Impact Fee.

7
8 (6) ONCE THE AGE RESTRICTED HOUSING DEVELOPMENT
9 HAS BEEN APPROVED FOR EXEMPTION FROM THE
10 COUNTY'S SCHOOL ALLOCATION POLICY AND THE
11 SCHOOL CONSTRUCTION EXCISE TAX, THE DEPARTMENT
12 OF PLANNING AND GROWTH MANAGEMENT SHALL
13 NOTIFY THE CHARLES COUNTY BOARD OF EDUCATION
14 OF SAID EXEMPTION.

15
16 (B) No final plat for a residential subdivision or development services permit for a
17 residential site plan shall be approved until school capacity allocation has been
18 granted by the Director of Planning and Growth Management. School capacity will
19 be deemed adequate upon the granting of a school capacity allocation. It is the
20 intent of this ordinance that the capacity of public schools shall not be adversely
21 affected by residential development.

22
23 © The annual school capacity allocation committee, composed of the Charles County
24 Commissioners and the Charles County Board of Education, and/or their designated
25 representatives, will meet to decide on the appropriate allocations for the upcoming
26 year. This committee will consider the following factors, as well as any other
27 information deemed pertinent, in establishing the allocatable school capacity for the
28 upcoming year:

29
30 (1) Current enrollments;

- (2) Projected enrollments;
- (3) Current capacities of individual schools;
- (4) County-wide capacity at each level of school;
- (5) Capacity to be provided within the next five (5) years by any current CIP projects;
- (6) Additional capacity provided by the use of relocatable classrooms within the Board of Education's relocatable policy guidelines ;
- (7) Current district boundaries for school attendance and redistricting opportunities within the Board of Education's policy guidelines;
- (8) Residential development and growth within the incorporated towns which will impact the enrollments at county schools;
- (9) Number of lots from minor subdivisions recorded in previous year; and
- (10) Core capacities of each school facility.

(D) When determining the amount of allocatable school capacity, allocation may be made only if school capacity currently exists or is programmed to exist under the then applicable capital improvement projects program within the next five years.

(E) Allocation amounts may not exceed the amount of capacity available in the allocatable school capacity currently in effect. These allocations shall be based on the factors listed in Subsection C above.

(F) The granting of school capacity allocations shall be in accordance with the policies and procedures established in the adequate public facilities manual.

(G) The Fair Share School Construction Excise Tax adopted by Ordinance 02-97 shall not apply to those projects exempted under Subsection[s] A [and B] of this section.

SECTION 2. TRANSITION PROVISIONS:

1 The adoption of this bill shall not invalidate any Preliminary Plan for an age-restricted
2 residential development that was approved by the Planning Commission prior to the date of
3 adoption of this bill, provided that a final plat for said development shall be recorded not
4 later than one (1) year from the effective date of this bill.

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6 **SECTION 3.** BE IT FURTHER ENACTED, that this Act shall take effect FIFTEEN (15)
7 calendar days after it becomes law.
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